

Staff Summary Report



Hearing Officer Hearing Date: June 27, 2007

Agenda Item Number: 6

SUBJECT: This is a public hearing for a request by the **GRIFFIN RESIDENCE (PL070228)** located at 325 West Manhattan Drive for one (1) variance.

DOCUMENT NAME: 20070627dssd02

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **GRIFFIN RESIDENCE (PL070228)** **GRIFFIN RESIDENCE (PL070228)** (Leo Griffin, applicant/property owner) located at 325 West Manhattan Drive in the R1-6, Single Family Residential District for:

VAR07018 Variance to increase the wall height in the front yard setback from four (4) feet to five (5) feet.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

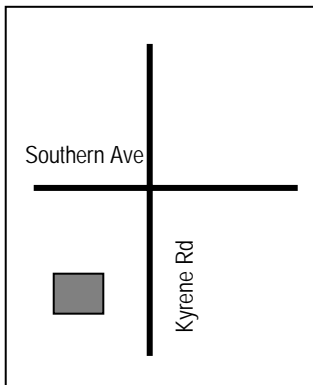
REVIEWED BY: Steve Abrahamson, Planning and Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Denial

ADDITIONAL INFO: The Griffin Residence is before the Hearing Officer to request a variance to increase the wall height in the front yard setback from four (4) feet to five (5) feet. The applicant had constructed a five (5) fence in the front yard uninformed that the Zoning and Development Code limits wall heights to four (4) feet in the front yard setback. To date, there has been no public response to this case. Staff recommends denial of the variance owing to lack of hardship, special circumstances or evidence indicating potential loss of substantial property rights.



ATTACHMENTS:

1. List of Attachments
 2. Comments; Neighborhood Meeting
 3. Reason(s) for Denial; Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference
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- A. Location Map(s)
 - B. Aerial Photo(s)
 - C. Letter of Intent
 - D. Copy of Courtesy Notice
 - E. Neighborhood Meeting Letter
 - F. Minutes from Neighborhood Meeting
 - G. Site plan
 - H. Applicants Photograph(s)
 - I. Staff Photograph(s)

COMMENTS:

The Griffin Residence is before the Hearing Officer to request a variance to increase the wall height in the front yard setback from four (4) feet to five (5) feet. The property is located at 325 West Manhattan Drive in the R1-6, Single Family Residential District. The applicant had constructed a five (5) foot fence in the front yard uninformed that the Zoning and Development Code limits wall heights to four (4) feet in the front yard setback. The applicant was given a code compliance notice to obtain a variance or reduce the wall height to no taller than four (4) feet.

To date, staff has not received any public input on this case.

Variance

The Zoning and Development Code requires a variance for a wall/fence greater than four (4) feet in height that is located in the front yard setback, in the R1-6 Single Family Residential District.

Evaluating the variance, the proposal appears to meet the criteria for approving the variance:

1. There are special circumstances or conditions applying to the land, building, or use referred to in the application;
 - There doesn't appear to be a special circumstance keeping with the land, building or use. Applicant indicates the special circumstance is an elderly parent confined with dementia.
2. That authorizing the variance is necessary for the preservation and enjoyment of substantial property rights;
 - A five (5) foot wall is not necessary for enjoyment of substantial property rights.
3. That authorizing the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to public welfare in general; and, if applicable
 - The property owner received a notice from neighborhood enhancement, meaning there was a complaint filed on the height of the fence. As it appears, the fence doesn't match the existing residence. The neighbors who attended the neighborhood meeting don't feel the wall is a detriment to the neighborhood, they only request the fence be painted to match the main residence.

Neighborhood Meeting

Applicant had the neighborhood meeting on Monday June 4, 2007 at 7:00 p.m.

Seven (7) neighbors attended the meeting and had only a few questions. What was the purpose of the wall, applicants explained it was to keep her grandmother who suffers from dementia within the confinement of the yard. The applicant's grandmother can enjoy the fenced in front yard without walking into the street or getting lost in the neighborhood. Neighbors requested the new fence be painted to match the existing residence. Applicants have no issue with painting the fence.

Conclusion

Staff recommends denial of the variance.

**REASON(S) FOR
DENIAL:**

1. No special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is not necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance(s) will may be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

**SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE
FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.**

**CONDITION(S)
OF APPROVAL:**

1. The variance is granted at five (5') foot. The wall can't exceed five (5) foot without authorizing of a new variance application.
2. Obtain all necessary clearances from the Building Safety Division.
3. The wall shall be painted to match the existing residence.

HISTORY & FACTS:

August 28, 1996

BA960205: The Board of Adjustment approved a Variance for the White Residence to reduce the accessory building setbacks.

April 23, 1997

BA970054: The Board of Adjustment approved to modify the previous variance approval.

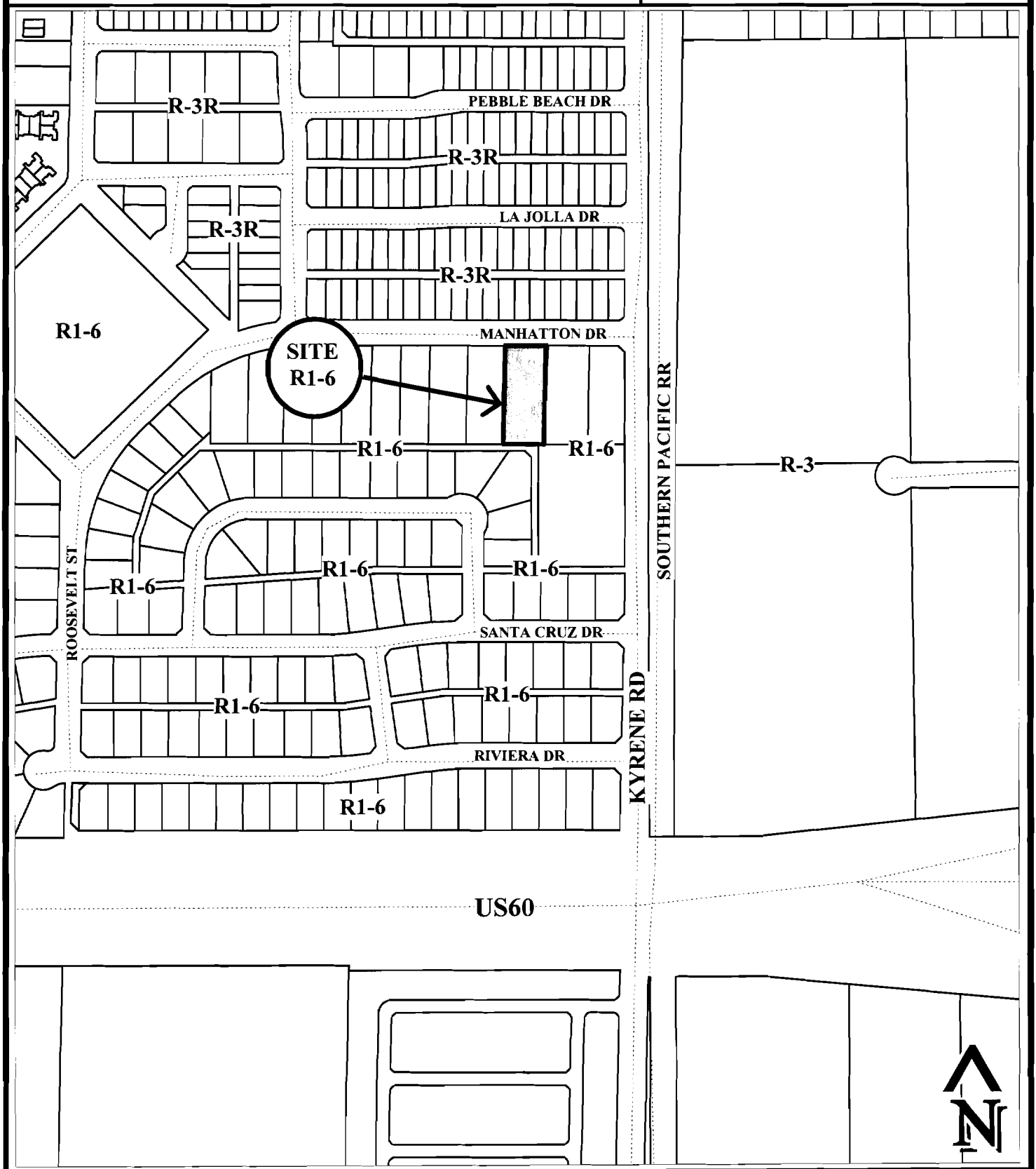
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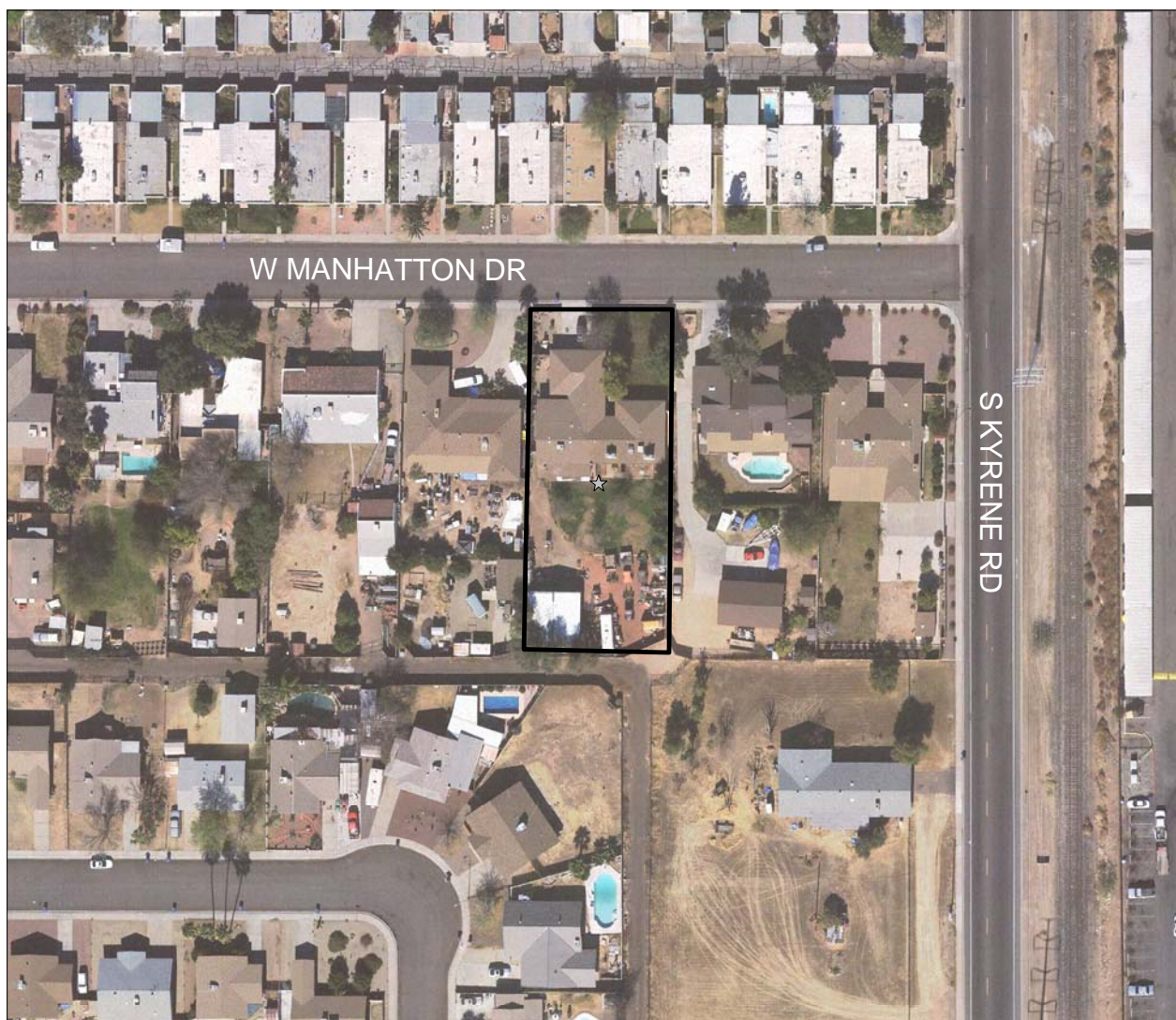
Applicant – Leo Griffin
Owner – Leo Griffin
Existing zoning – R1-6, Single Family Residential District
Lot Size- 21,746 s.f. / .49 acres
Required Fence Height – 4'
Existing Fence Height – 5'
Front yard Setback– 20'

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 4, Chapter7, Section 4-706: General Fence and Wall Height Standards

Part 6, Chapter 3, Section 6-309: Variances

GRIFFIN RESIDENCE**PL070228**



GRIFFIN RESIDENCE (PL070228)

Leo & Karen Griffin
325 W. Manhattan Dr.
Tempe, Az 85282
(480)-510-9999
griffinszone@cox.net

**Project: Leo&Karen Griffin
325 W. Manhattan Dr.
Tempe, Az 85282**

Letter of Explanation

Request: To get a variance on the front wall that exceeds the four foot maximum of city code section 4-706. Therefore, we are requesting a variance on the height of the front wall

to 5' (4'-11")

- A. Be for the purpose of allowing our 88 yr. old mother-in-law/mother, who suffers from dementia, the freedom to go outside, feel Independent, without the harm of getting lost.**
- B. That authorizing this would increase the property value of other houses in the area.**
- C. That authorizing of the application will not be materially detrimental to person residing or working in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.**
The wall enhances the property as well as the neighborhood.
- D. Be for the purpose of rectifying a special circumstance which was self-imposed by the property owner of applicant.**
Due to the fact that we would like to care for our aging mother/ mother-in-law, suffering from dementia, in our own home.

Thank you for your kind consideration on this matter.

Karen Griffin

CASE #CE072073



**City of Tempe Code Enforcement Division
Courtesy Notice**

We need your help to keep our City clean.

Date mailed: 04/25/07

**Leo Griffin
325 W. Manhattan Dr,
Tempe, AZ 85282**

This is a courtesy notice to inform you that on 04/24/07, 325 W. MANHATTON DR, TEMPE was inspected and found to be in violation of the following subsection(s) of the Tempe Zoning and Development Code. A re-inspection will be conducted on or after 05/25/07 to verify compliance.

Violation of the Tempe Zoning & Development Code , Section 4-706

Sub-section A. General Fence and Wall Height Standards

- 1. The maximum height of any freestanding wall or fence shall be measured from the highest adjacent finished surface of the ground, paving, or sidewalk within twenty (20) feet, unless otherwise noted. Walls and fences in a required front yard building setback shall be four (4) feet maximum height, including single-family residential yards.**
- 4. All fences and walls shall be subject to city review and approval through development plan review, or by approval of the Development Services Manager, or designee. Any wall in excess of six (6) feet shall require a building permit, as required by Building Code.**

Additional Information/Corrective Action Required

Please have the wall that has been constructed in the front yard set back approved through the Development Services Department, (480)350-8341. The wall is in excess of four feet, and in violation of the above sub-section.

We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372. Failure to comply may result in criminal charges against the property owner or responsible party.

Code Inspector: Kirk Erickson

Phone Number: (480)350-8671

E-Mail: kirk_erickson@tempe.gov

CE808 10/98

Leo&Karen Griffin
325 W. Manhattan Dr.
Tempe, Az 85282
(480)-510-9999
griffinszone@cox.net

Letter of Notification of Neighborhood Meeting

May 21, 2007

Dear Neighbors,

A neighborhood meeting is required for variances, when the property is located within 300' of a residential use area. The property in question is located at **325 W. Manhattan Dr.** The variance requested will provide for a fence more than four feet tall to be located, at the front of the property.

The meeting date, time, and location are:

Monday June 4, 2007
7:00 pm

325 W. Manhattan Dr.
Tempe, Az 85282

All questions and concerns can be presented at the neighborhood meeting, thank you for your consideration of this project designed to enhance the property and neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read "Leo & Karen Griffin", written in a cursive style.

Leo&Karen Griffin

Daffara, Shawn

From: Karen Griffin [griffinszone@cox.net]
Sent: Friday, June 08, 2007 9:17 AM
To: Daffara, Shawn
Subject: meeting notes for june 4th

Leo & Karen Griffin
325 W. Manhattan Dr.
Tempe, AZ 85282
(480)-510-9999
griffinszone@cox.net

Neighborhood Meeting for Monday, June 4th, 2007 7pm

Meeting Notes

Attendees

Seven neighbors, Janet Anderson, Dan and Jan Knuth, Donald Richerson, Russel Spalding, and Denis and Sadie Thomas, attended the meeting

Property owners, Leo and Karen Griffin

Discussion

The variance concerning the existing front wall was discussed. All the neighbors wanted to know what the purpose of the fence was, my husband and I explained about Grandma and having numerous items stolen. All the neighbors did not think it was a problem for the overhanging existing fence. However, they did express the need to either paint or stucco the wall so that it matched the existing structures.

Front
Setback

94.50

20-

325

5.50'

O | W

123-46-1V

123-

94.50

60

36.37, 5









GRIFFIN RESIDENCE

325 W. MANHATTAN DR.

PL070228

FRONT OF HOME: VIEW TO THE SOUTH